IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO. 224 OF 2004

IN

SUIT NO.2249 OF 2003

ETC Networks Ltd .. Plaintiff

versus

M/s Synthiko Export Pvt.Ltd .. Defendant

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Mr. H.N.Thakore i/b T.Jariwala & Co for Plaintiff.

Mr.M.M.Gunjalkar i.b V.N.Bagera for Defendant

CORAM : D.G. KARNIK, J

DATED : 21st March 2005.

P.C:-

1. Heard learned counsel for the parties. The plaintiff is a TV channel. The defendant placed orders on the plaintiff for advertisement to be inserted in the programme " " Popkoun". According to the plaintiff, the advertisement were inserted in the said programme and bills were issued to the defendant. However, the defendant failed and neglected to make

the payment. Hence, the plaintiff has filed this suit for recovery of the money. According to the defendant, the advertisemernt were never shown in the programme "Popkoun" and therefore it is not liable to make the payment. After perusal of the affidavit, rejoinders and surrejoinders, and compilation of the documents handed in, it appears that the advertisement were not shown in the programme " Popkoun" but the advertisement were shown in the programme "Popnakka". According to the learned counsel for the plaintiff, the name of "Popkoun" was changed to " Popnakka". This fact has not been mentioned in the plaint. I am of the view that the defences raised by the defendant including the defence that advertisement was not shown in the programme " Popkoun" gives rise to triable issues in the suit. Hence, the defendant is granted unconditional leave to defend the suit.

2. The suit stand transferred to the list of commercial causes. The defendant to file the written statement within one month.

D.G.KARNIK, J